

NOTICE: THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.
See Ariz. R. Supreme Court 111(c); ARCAP 28(c); Ariz. R. Crim. P. 31.24

FILED BY CLERK

JUL 16 2013

COURT OF APPEALS
DIVISION TWO

IN THE COURT OF APPEALS
STATE OF ARIZONA
DIVISION TWO

THE STATE OF ARIZONA,)	2 CA-CR 2013-0178-PR
)	DEPARTMENT A
Respondent,)	
)	<u>MEMORANDUM DECISION</u>
v.)	Not for Publication
)	Rule 111, Rules of
SEAN MICHAEL JACKSON,)	the Supreme Court
)	
Petitioner.)	
_____)	

PETITION FOR REVIEW FROM THE SUPERIOR COURT OF MOHAVE COUNTY

Cause No. CR20061509

Honorable Steven F. Conn, Judge

REVIEW GRANTED; RELIEF DENIED

Matthew J. Smith, Mohave County Attorney
By Gregory A. McPhillips

Kingman
Attorneys for Respondent

Sean Michael Jackson

Florence
In Propria Persona

H O W A R D, Chief Judge.

¶1 Pursuant to a plea agreement, petitioner Sean Jackson was convicted of molestation of a child, a dangerous crime against children. In 2007, the trial court sentenced him to the stipulated prison term of twenty-four years. Jackson filed a notice

of post-conviction relief, which the court ultimately dismissed in January 2009 when no petition was forthcoming.¹ In April 2012, Jackson filed a “Petition for Post Conviction Relief under Rule 32.1(e) of Arizona Rules of Criminal Procedure. ‘Amended’,” challenging the imposition of consecutive sentences. The court denied relief without conducting an evidentiary hearing. This petition for review followed. “We will not disturb a trial court’s ruling on a petition for post-conviction relief absent a clear abuse of discretion.” *State v. Swoopes*, 216 Ariz. 390, ¶ 4, 166 P.3d 945, 948 (App. 2007). We find no such abuse here.

¶2 In his pro se petition for review, Jackson claims that the trial court improperly imposed consecutive sentences, and that this claim constitutes newly discovered evidence. In its minute entry denying Jackson’s pro se petition, the court identified and addressed the claim he had raised, resolving it correctly and in a manner permitting this court to review and determine the propriety of that order. *See State v. Whipple*, 177 Ariz. 272, 274, 866 P.2d 1358, 1360 (App. 1993). The court not only noted that Jackson did not receive consecutive sentences, but also adopted by reference its October 2, 2009 ruling, in which it had reiterated the history of this case and explained its reasoning for dismissing his previous Rule 32 proceeding. No purpose would be served by restating the court’s rulings in their entirety. *See id.* Rather, we adopt both of those rulings.

¹The trial court likewise dismissed Jackson’s amended notice of post-conviction relief, filed in September 2009, nine months after the trial court’s dismissal of his first notice. In April 2011, this court denied review of Jackson’s petition for review from the court’s dismissal of his 2009 amended notice.

¶3

Although we grant the petition for review, we deny relief.

/s/ Joseph W. Howard

JOSEPH W. HOWARD, Chief Judge

CONCURRING:

/s/ Garye L. Vásquez

GARYE L. VÁSQUEZ, Presiding Judge

/s/ Michael Miller

MICHAEL MILLER, Judge